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USTR AND ITC BUDGET AUTHORIZATION FOR FISCAL YEAR 1990

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

MARCH 8, 1989

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USTR AND ITC BUDGET AUTHORIZATION FOR FISCAL YEAR 1990

WEDNESDAY, MARCH 8, 1989

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:00 a.m. in room SD-215, Dirksen Senate Office Building, Hon. Daniel Patrick Moynihan presiding.

Also present: Senators Baucus, Bradley, Packwood, Roth, and Danforth.

[The press release announcing the hearing follows:]

[Press Release No. H-4, January 11, 1989]

SENATOR BENTSEN ANNOUNCES BUDGET AUTHORIZATION HEARINGS

WASHINGTON, DC—Senator Lloyd Bentsen (D., Texas), Chairman, announced today that the Committee on Finance will hold hearings on budget authorizations for the Customs Services, United States Representative and International Trade Commission.

The hearings are scheduled for *Tuesday, March 7, 1989 and Wednesday March 8, 1989 at 10:00 a.m.* in room SD-215 of the Dirksen Senate Office Building.

Bentsen said "As a result of the Omnibus Trade and Competitiveness Act of 1988 and the U.S.-Canada Free Trade Agreement, the international trade agencies have acquired a wide range of new responsibilities. Effective implementation of the new Trade Act and U.S.-Canada Agreement depend on these agencies having the necessary resources to meet their new responsibilities. As part of its program of oversight of the trade laws, the Committee will want to take a good look at the budget proposals for each agency with a view toward writing legislation this year that authorizes these agencies the funds they need to perform their jobs effectively and efficiently."

OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, A U.S. SENATOR FROM NEW YORK

Senator MOYNIHAN. A very good morning to our witnesses and guests. The Committee on Finance begins at this point on hearings on the budget authorizations for the International Trade Commission and the U.S. Trade Representative.

We are particularly pleased to know that Mr. Joshua Bolten is here with us, who is well and most favorably known to this committee which he served with such great distinction for so many years.

May I just make a simple point that Senator Bentsen is necessarily engaged elsewhere and asked if we would proceed without him.

Senator Packwood, whose relationship to Mr. Bolten is well known, might want to say a word.

Senator PACKWOOD. I have no opening statement. I have a number of very tough questions that I wanted to ask.

Senator MOYNIHAN. That's right, and you would know if they were. Senator Baucus?

Senator BAUCUS. I have no statement. Thank you.

Senator MOYNIHAN. Mr. Bolten, we welcome you. You might want to summarize your statement and then you are going to have to face these questions.

STATEMENT OF JOSHUA BOLTEN, GENERAL COUNSEL AND ACTING DEPUTY U.S. TRADE REPRESENTATIVE, ACCOMPANIED BY MICHAEL DOYLE, ASSISTANT U.S. TRADE REPRESENTATIVE FOR ADMINISTRATION

Mr. BOLTEN. Thank you, Mr. Chairman. It was a high honor and a great pleasure to have the opportunity to serve Senator Packwood and this committee for three and a half years. It is likewise an honor to appear before you this morning. After I hear Senator Packwood's questions, I will let you know whether it is a pleasure.

I am here today on behalf of Ambassador Hills and the U.S. Trade Representative's Office to present our fiscal year 1990 budget request which has been previously submitted to you.

I am accompanied this morning by Mike Doyle, our Assistant U.S. Trade Representative for Administration.

Senator MOYNIHAN. We welcome you, Mr. Doyle.

Mr. BOLTEN. Mr. Doyle is, I have already learned in the few weeks I have been at USTR, an alchemist of the first order, able to turn the lead of limited resources into the gold of a finely tuned operation. We are very grateful for his support.

Mr. Chairman, as you mentioned, I have a prepared statement which I have submitted for the record, I will just briefly summarize it orally this morning.

As with U.S. trade policy in general, USTR, the agency, faces a number of major opportunities and challenges in the coming year. The budget request we present today provides us the tools to meet those challenges and to seize the opportunities.

Our request for fiscal year 1990 is that you authorize an appropriation totaling $16,830,000. That is $1.6 million above the current year's base of $15.2 million. Most of that budget overall pays for staff. About two-thirds of our costs are personnel costs. We propose to increase staff for fiscal year 1990 from the current 146 up to 152.

The increases that we are requesting reflect about an 11 percent increase in dollars and about a 4 percent increase in staff.

Last year, USTR requested and received an authorization level that was the same as the year before. If you average out our requests over the last two years, you get an average growth of about 6 percent in our budget request and about 2 percent in staff.

If you look back over the last five years, we have had steady but modest growth in the agency, amounting to about 5 percent a year in budget and dollars expended, and a little less than that—about 3 percent a year—in staff.

That contrasts, Mr. Chairman, rather starkly with a fairly rapid increase in the early years of the formation of the agency. I understand that, in the early 1960's, USTR had, at most, two dozen people working in rented space over on G Street. As you know, we are now in the distinguished building on 17th Street, where we

house about 200 people altogether, including those who are detailed from other agencies.

Of the $1.6 million increase we are requesting this year, $1.4 million is intended as a real program increase targeted for additional costs of completing the Uruguay Round of negotiations. We budgeted that money—the money that is targeted for the Uruguay Round—primarily for additional staff; as well as for travel to and from Geneva, which, as you know, is the locus of the negotiations; and for some additional overhead costs at our permanent mission in Geneva.

We have also budgeted some increased costs associated with public hearings that we are required to have on the Uruguay Round, and a modest increase in our representation funds from merely $69,000 to $89,000 for fiscal year 1990.

Our budget also includes about $130,000 of mostly nonrecurring expenses needed to upgrade our computer and telecommunications security systems.

Mr. Chairman, we are seeking a modest increase in a modest budget, but we believe it is a very solid budget. Given the scope of its responsibilities, USTR is quite a small agency, but appropriately so. USTR's mandate, which is set out in the 1974 Trade Act, and was amended by this committee last year in the 1988 Omnibus Trade and Competitiveness Act, is primarily to develop trade policy, to coordinate its implementation, and to conduct negotiations. In short, to lead on trade policy for the administration. That leadership mission is best served by a small cadre of highly skilled professionals. In my few short weeks at USTR I have learned quickly that that is precisely what USTR is.

Deep levels of specific trade expertise and staff support are not, and should not, be located at USTR. We draw heavily—and I have seen effectively—from a number of other agencies, especially Commerce, State, Treasury, Agriculture, and the ITC. I think the committee, in setting up the U.S. Trade Representative's Office more than 25 years ago, recognized that the coordination and policy development function is best performed without a cumbersome bureaucracy, but rather more with the lean and mean machine that USTR is and is supposed to be.

Mr. Chairman, the budget we are presenting today is well suited to the mission I have described, and we hope the committee will adopt it.

That concludes my remarks and I would be pleased to respond to your questions.

[The prepared statement of Mr. Bolten appears in the appendix.]

Senator MOYNIHAN. I thank you, Mr. Bolten.

I am constrained just to remark that I have always felt, or have sometimes felt, even as far back as 1963, that the Department of Commerce should be made into a Department of Trade and Commerce. But that was not to be. And certainly the record of the USTR has been exceptional. Whether how lean—certainly you are lean—how mean you are, I don't know. If you are mean, how come we have a $150 billion trade deficit? I don't press you for an answer.

Senator Packwood has some questions he wants to ask you.

Senator PACKWOOD. That is about $1 billion for each employee.

Joshua, I don't see how you do it, frankly. You are asking for six more people. You have got Europe 1992 coming up with all the problems that may or may not cause us. You have got to finish the Uruguay Round. It is a very modest request, frankly.

Is this your request—I don't mean yours, personally—or is this what OMB says this is all you can ask for?

Mr. BOLTEN. This is the administration's request, Senator. The original request made to OMB by the U.S. Trade Representative's Office was higher, but we feel comfortable that we can live within what OMB has allocated among the various agencies.

Senator PACKWOOD. How much higher did you ask for?

Mr. BOLTEN. We requested $21.——

Mr. DOYLE. $21.1 million, Senator. That is more than a slight increase.

Senator MOYNIHAN. A little bit more.

Senator PACKWOOD. Of which they are giving you $1.6.

Mr. DOYLE. No. They are giving us $16.8 million.

Senator PACKWOOD. Oh, excuse me.

Mr. DOYLE. The total was $21.1.

Senator PACKWOOD. A total of $21.1.

Mr. DOYLE. Yes.

Senator PACKWOOD. They are giving you $16.8 million.

Mr. DOYLE. Right.

Let me make a couple of observations about the difference. One big item that is not in there is the $1.5 million that we had requested for the payments to panelists required under Chapter 19 of the CFTA.

Senator PACKWOOD. What is that?

Mr. DOYLE. That is the payment to panelists under Chapter 19 of the——

Senator PACKWOOD. Payments to what?

Mr. DOYLE. Chapter 19.

Senator MOYNIHAN. Mr. Doyle, tell us what that chapter is.

Mr. DOYLE. Chapter 19 deals with anti dumping and countervailing duty decisions, the review of those decisions. The amount of money that was requested for that within the $21.1 million by USTR was $1.5 million. Those funds are being requested by the Commerce Department. The funds will be there, but they are in the Commerce Department budget. Commerce has the responsibility for supporting the binational secretariat, and they are going to expend the funds.

Senator PACKWOOD. Are these the monies that we thought would be in the USTR?

Mr. DOYLE. Yes.

Senator PACKWOOD. And when we passed the bill, we thought this function was going to be done by USTR. And they have crept into the Commerce part of the budget somehow.

Mr. BOLTEN. Senator, the committee originally intended that that budget be provided for in the USTR budget, but it was always contemplated that the function be performed over at Commerce, which is where the function is lodged. The secretariat for implementing the dispute settlement panels was originally supposed to be lodged in the Commerce Department.

Senator PACKWOOD. So that would be one and a half off of your 21 how much request?

Mr. DOYLE. $21.1 million.

Senator PACKWOOD. 21.1. That would be 1.5 off.

Mr. DOYLE. Right.

Senator PACKWOOD. That would be 19.5.

Mr. DOYLE. Right. In constructing the request, we were very sober in looking at a world in which other agencies might have to actually reduce the support they are providing to us, particularly in the Round, so we constructed the estimate on that basis, but we are confident that not only will they provide the levels of support they have in the past year and the current year, but we expect them to provide a bit more such that we can get the Round done, in particular. Costs that were estimated in connection with that support are not in the Congressional request because we expect the other agencies to continue to help us.

Senator PACKWOOD. So you have got a difference of about $3 million from what you had asked and what you are getting. And you are saying that, as far as you are concerned, you satisfactorily has been made up in the other departments, and you can call upon those people and will have access to them.

Mr. DOYLE. Yes.

Senator PACKWOOD. Well I can't quarrel with that, Mr. Chairman, if they are satisfied.

Senator MOYNIHAN. Are you sure you don't want any more money?

Mr. BOLTEN. Senator, we are sure.

If I could make a more general point.

Senator MOYNIHAN. Could I ask Mr. Doyle or Mr. Bolten—I am just curious—I don't know how long you have been there. Have you been with the USTR long enough to have some sense of the movement of the Swiss franc against the dollar? It is minimal now, isn't it?

Mr. DOYLE. Yes, it is minimal, Senator. But if you go back from its peak some years ago when I think it was about 2.5, and you look at the experience since then, we lost, I estimate, about $300,000 in terms of purchasing power. But over the last two years it has been stable. We are managing against that in the hope that it will be reasonably stable in the future.

Senator MOYNIHAN. The exchange is now?

Mr. DOYLE. The exchange rate now is about 1.56.

Senator MOYNIHAN. Well that is awful.

Mr. DOYLE. That is awful. But I think over the last couple of years it has been about the same, so we have adjusted to it.

Senator MOYNIHAN. All right. But that does tell you something about why your work is important, doesn't it?

Mr. DOYLE. Yes, sir.

Senator MOYNIHAN. I am sorry to be ancient, but the franc was four to a dollar for a century. It is now one and a half to a dollar. That says something about the relative performance of U.S. economy, does it not? I am not asserting, but what do you say? Mr. Bolten?

Mr. BOLTEN. It does, Senator. And it does impose something of a hardship on our Geneva mission. But as Mike said, it is something

that we have learned to live with. Hopefully, we won't get any wild fluctuations over the next few years, and we can adjust to the rate of the dollar versus the Swiss franc.

Senator MOYNIHAN. I suppose if you have to sleep on park benches, those are among the more agreeable ones to be found.

Mr. BOLTEN. Senator, I am sure you are pleased to know that the staff director of the Ways and Means Trade Subcommittee, Rufus Yerxa, has been designated by the President to be the Ambassador who will go over and sleep on the park bench if necessary. And I can tell you that he is looking forward to the challenge. [Laughter.]

Senator MOYNIHAN. Mr. Bolten, I am constrained to impart to you that today I have sent a letter to our chairman expressing my very genuine distress with respect to the legislation of the Omnibus Trade Bill that calls for the preparation of trade forecasts. You have chosen to make the whole thing a secret. We understood very well that early on you would not want to forecast exchange rates. That tends to be a self-fulfilling prophesy if the Treasury forecasts such things like that, or anybody in the executive branch does. But the actual levels of trade and the projections in the way things are moving, we had thought they would be useful to the trading community. And could I ask if you wouldn't bring that to the attention of the Ambassador? We really are concerned. I mean, we enacted a statute that looked forward to a kind of open attention to this subject. We walked into that trade deficit. We had a trade surplus in 1981. And we walked into the trade deficit, nobody noticing. And the Secretary of Treasury, every time he heard there was a strong dollar, he said, that means a strong America, and felt great. Well we lost out half our markets in places like Europe. And a certain amount of projecting could have been done and might have made a difference. Might have. Do you have any thought on that if I could just ask?

Mr. BOLTEN. Mr. Chairman, I will certainly convey to Ambassador Hills your distress and that of Senator Bentsen. Your staff has already conveyed that at a staff level.

I should say that the large narrative bulk of the report is unclassified. What was classified was the attachment to it that included a lot of specific numbers and forecasts. But with respect to that, I cannot speak for Treasury, but it is evidently their long-standing policy to classify a large number of these forecasts for a couple of reasons. One is to try to foster open discussion within the G–7 group, whose economies we are forecasting about. There is evidently some concern that there would be embarrassment caused to those foreign nations if our forecasts conflicted with theirs.

Senator MOYNIHAN. Why don't you come and talk to us and tell us. We were a little bit surprised.

Mr. BOLTEN. Yes. I can understand that, Senator.

As to the report, in general, I should tell you that certainly within USTR it has been viewed as a very effective and useful exercise. I know you had a great deal to do with putting that provision into the trade bill. It has been very much welcomed, at least within USTR.

This was the first go round for this report. We did not have all the time we would have liked to deal with it. But I think it is going to be a very useful exercise in the future.

Senator MOYNIHAN. Would you tell the people involved to go back and take a look at the first report of the Council of Economic Advisers? It consists of nothing except pictures or photographs of combines going through wheat fields. [Laughter.]

And saying, "America is going to grow." And it looks like they got the knack of it after a while.

Mr. BOLTEN. Yes.

Senator, I can assure you that there are no photographs in this report. [Laughter.]

Even in the classified section.

Senator MOYNIHAN. You have to start and there is a rule. You will always know more about a subject if you put a number on it. Just put a number on it and see whether the number feels good, bad. You know, you learn something.

Senator Baucus?

Senator BAUCUS. Thank you, Mr. Chairman.

Mr. Bolten, I understand that USTR presently has one full-time assistant USTR. His name is Joe Massey and he is responsible for both Japan and China. Is that correct?

Mr. BOLTEN. That is correct.

Senator BAUCUS. And that he has a full-time deputy, Glen Fukushima. He was responsible for Japan.

Mr. BOLTEN. That is correct.

Senator BAUCUS. And, further, that on occasion—maybe presently—the USTR has on loan from some other agencies, maybe one person at a time who is also responsible for Japan, but that the last 4 years that loan position has turned over 12 times.

Mr. BOLTEN. I don't know how many times it has turned over, Senator, but it is fairly rapid turnover. Right now, there are two people on detail from other agencies working on Japan exclusively.

Senator BAUCUS. But is the characterizations that I gave to turnover in the ballpark? Is it frequent?

Mr. BOLTEN. I believe it is.

Mr. DOYLE. Yes.

Senator BAUCUS. Now these people who are loan, are they long-time Japan experts or not?

Mr. BOLTEN. I believe they are experts, professionals.

Senator Baucus, Are they Japan experts? Do they speak Japanese? I mean, have they lived in Japan?

Mr. BOLTEN. I think the answer on the details is no at the moment. They have in the past had that kind of experience.

Senator BAUCUS. Is it fair to say then that Glen Fukushima is probably the only full-time Japan expert working at the USTR?

Mr. BOLTEN. No, sir. I think you would have to include Joe Massey also.

Senator BAUCUS. Even though he is responsible for China?

Mr. BOLTEN. He is responsible for China, yes.

Senator BAUCUS. So he is not full-time Japan.

Mr. BOLTEN. Oh, no, he is not full-time Japan.

Senator BAUCUS. That is what I meant.

Mr. BOLTEN. All right.

Senator BAUCUS. There is only one full-time Japanese person.

Mr. BOLTEN. I think that is correct.

Senator BAUCUS. How many full-time American experts does MITI have working on United States-Japanese trade matters?

Mr. BOLTEN. Senator, I am unaware of the answer to that, but I would be delighted to respond in writing.

Senator BAUCUS. What is your best guess?

Mr. BOLTEN. My guess is it is well into the double digits.

Senator BAUCUS. Well into the double digits?

Mr. BOLTEN. It could even be in the triple digits.

Senator BAUCUS. Possibly the triple digits.

Can you characterize then the relative—not intellectual strength—but the numerical strength of U.S. trade negotiating teams with those of, say, Japan, whether it is beef negotiations or any dispute, negotiations with Japan?

Mr. BOLTEN. Senator, would I characterize our relative level of strength?

Senator BAUCUS. Correct.

Mr. BOLTEN. I think we are completely the equal of any other negotiating team.

Senator BAUCUS. No. I mean the number of people devoted, I said not intellectually or not fire power, but just the number of people devoted to the negotiations inside.

Mr. BOLTEN. In sheer numbers of people thrown into any negotiation, my guess would be that the Japanese outnumber us on a regular basis.

Senator BAUCUS. By a magnitude of any number?

Mr. BOLTEN. I have no idea. I don't think it is a large magnitude. What you need to keep in mind for a lot of these negotiations is that USTR serves much more of a coordinating role than an agency like MITI does. When we go into a negotiation, on beef for example, a large portion of the staff work and the back up work would be done, by the Agriculture Department, and not by USTR people, who serve the coordinating and the lead role, but not the staff role that many of our MITI counterparts might serve.

Senator BAUCUS. I also hear that sometimes the USTR has difficulty in finding funds to pay for Japanese periodical subscriptions. Is that correct?

Mr. DOYLE. I don't think so, Senator. I am not personally aware of a problem in being able to pay for those when we need them.

If I could make an observation though about relative strengths of negotiating teams, and just how we approach our work versus MITI. I don't know whether it is a pertinent analogy, but I remember a question posed by this committee last year in connection with the Canadian Free Trade Agreement and how much staff we had. I think we responded by pointing out that we only had three staff directly within the Office of Canada and Mexico that were working on it, but they were backed up by about 10 man years of USTR staff support in other sect oral areas, for example. They were backed up by some 60 man years of effort in the other Cabinet departments. We thought that was a very good effort, about 70 or 80 people that were working full-time on that agreement. I think that is our style.

Senator BAUCUS. I understand that. But is it also true that some of those people are not "experts" in that area? That is, they are helping out in a general support nature, but basically are not sort

of Canadian experts and know all the ins and outs of Canada, and have been living all their lives eating and breathing and sleeping in Canada. I don't mean to exaggerate the point, but sometimes when you talk about the support back up, these people are not all that directly involved.

I understand your request will be for one staff person devoted to Europe 1992. Is that correct?

Mr. BOLTEN. That is our current staffing level: one person devoted exclusively to 1992.

Senator BAUCUS. Is it true that you are going to be strained or stressed working on not only the Uruguay Round but the new Trade Act, with Section 301 investigations coming up? Isn't it true that is going to cause a significant strain on the USTR?

Mr. BOLTEN. Senator, there are always strains, but we think that we have got the budget and the manpower to meet them.

Senator BAUCUS. Is it fair to say you have additional workloads compared with last year?

Mr. BOLTEN. Yes.

Senator BAUCUS. Additional responsibilities.

Mr. BOLTEN. We do have additional responsibilities. You do need to keep in mind that the U.S. Trade Representative's Office devoted a lot of resources last year to working with the Congress on the Trade Bill. Those same resources can now shift over to implementing the Trade Bill. The same is true of the Canada agreement.

Senator BAUCUS. And you asked for $21 million. Is that correct?

Mr. BOLTEN. Yes.

Senator BAUCUS. Of OMB?

Mr. BOLTEN. Yes.

Senator BAUCUS. All right. Thank you,

Senator MOYNIHAN. Senator Bradley?

Senator BRADLEY. No questions, Mr. Chairman.

Senator MOYNIHAN. Senator Danforth?

Senator DANFORTH. Mr. Chairman, thank you very much. Mr. Bolten, I just got in during Senator Baucus' questions, and my comments might duplicate what he said, but, clearly, we have an emerging situation now in Europe with Europe 1992 looming upon us. Some people feel that our efforts are not sufficiently attentive to what is going on in Europe. They point out that every move that is made in the United States is very closely monitored by Japan and other countries, and perhaps we are not quite as keyed in to what is going on elsewhere, and especially in Europe right now. This is the time for our administration to be very aware of every nuance, and very savvy, and expressing what our reaction is to every nuance.

So the question is—and I apologize if this is simply a rehash of what has been said previously—but the question is whether we are geared up; and whether we can be geared up under this request to accomplish the job we have to accomplish?

Mr. BOLTEN. Senator, we are geared up. We think we can be geared up under this request. Again, a lot of the resources that need to be thrown at the 1992 problem need to come from the specific agencies where the specialized expertise is located. For example, the financial services directive that the EC is working on: The

best way to deal with that is to have Treasury experts working on the problem, not add people to USTR to do it.

The general point, though, is that there is a great deal of information flowing now out of Brussels and the European Community that we need to keep track of. We are working on beefing up our resources to respond to that. It may not be that all of those people need to be on site in Brussels. A lot of the work that needs to be done is analysis and policy development, which is more properly done here in Washington. We think we have got the resources to meet that challenge.

We have heard—Ambassador Hills did—from this committee just last week and from other committees and from the business community that now is the time to crank up our effort. The message was received on that score. An interagency group is meeting, I believe, on Friday to talk specifically about this issue that I know you, Senator Roth, and others on the committee are especially interested in. We will be talking to your staff about the results of our interagency review of our resources for 1992.

Senator DANFORTH. Well if it requires a variety of departments to be involved in monitoring Brussels, that creates even more alarm on my part. In other words, my concern is that there is going to be a disorganization and disjointed approach to trying to find out what is going on and, furthermore, with the budget crunch we are going to be very tightfisted. Some departments are probably going to be more willing to outdo the other departments on how tightfisted they are going to be on things like personnel.

We are talking here about the major trade issue now looming on the horizon for the United States. And really, it would be penny-wise and pound-foolish if some department felt that it was going to economize by cutting out a few slots when we should be doing an excellent job of keeping track of what is going on in Europe.

Now my understanding of your assurance is that the message has been received and that the position of USTR, and I hope the administration, generally, and the various departments within the executive branch is going to be ready to do whatever is necessary to do an absolutely first-rate's job in keeping up with and responding to the developments in Europe.

Mr. BOLTEN. That is correct, Senator. Message received on that score. And don't think we are going to see any of the agencies penny pinching on this important issue.

Senator DANFORTH. Now with respect to the implementation of the 1988 Trade Act, that did create a change in the responsibilities of USTR Are you able to deal with the responsibilities that were given to you by the 1988 Trade Act? What we don't want to do is to have some hearing in a couple of months or half a year, or whatever, and to have USTR take the position that this is just too much; that we have just totally bogged you down and you can't possibly keep up with the duties that you have been given to do. And can you give us your assurance that the responsibilities that you have been given can be discharged effectively?

Mr. BOLTEN. Yes, Senator, we can. Again, the responsibilities of USTR, were greatly increased in the 1988 Act. We meet part of that additional responsibility by shifting over resources that were involved in working with the Congress on the 1988 Act. In fact, in

some cases, it is many of the same people who shift over from working on the legislation now to working on 301 cases, and developing our priorities on 301 cases. That is a central part of the 1988 Act.

We do have the resources for the job. If that turns out not to be the case, you will be hearing from us directly. I have got the home telephone numbers of your staff, and staff of this committee, and they will be hearing from me.

Senator DANFORTH. I just want to say if you have any doubts, if USTR or the administration has any doubts about the ability to either execute the law or keep track of what you are supposed to keep track of in Europe or elsewhere, let us know. Don't wait until it is too late, and then lament the fact that Congress was too tightfisted with you. I think that we are willing to do whatever is fruitful to do in making sure that USTR is effective. So we are counting on you to tell us exactly what you need.

Mr. BOLTEN. Senator, you have my assurance on that. And, conversely, if you should feel that we are not meeting the challenge, you have my home telephone number.

Senator MOYNIHAN. May I say to my distinguished friend that Senator Packwood spoke in very much those terms at the opening of the hearing. Senator Roth.

Senator ROTH. Thank you, Mr. Chairman.

Mr. Bolten, as you indicated last week when the USTR was here, I expressed my deep concern about the adequacy of our representation in Brussels, and I might say that since then a number of the members of this committee have expressed to me that they share my concern. And I know that from what you have said in an earlier answer that you are seeking to address this problem. But I do have a number of questions in this area.

One thing that concerns me now in a negotiation at GATT there is no question but what the USTR is the key figure under our law. But under the existing situation, USTR is responsible for negotiations and the Commerce Department is responsible for administration. Is that not basically correct?

Mr. Bolten. In some cases, the Commerce Department has responsibility for implementing the results of negotiations, yes.

Senator ROTH. That's correct.

Mr. BOLTEN. Yes.

Senator ROTH. So you have here the interesting questions, Mr. Chairman, who is responsible for these discussions in Brussels? They are not technically negotiations. I don't know that you can really say that they are administration either. They are sort of a hybrid affair.

One of my concerns—and I am writing the President in this regard and I would hope that maybe some of my colleagues would join me—that there ought to be some assurance as to who is doing what in this case, because as I say, would you agree with me the law is not clear in these kind of circumstances?

Mr. BOLTEN. Senator, I don't think it is a problem with lack of clarity in the law. There is some overlap between the policy formulation and coordinating role, and the staffing and implementing role. There may be a need for further clarification of divisions of responsibilities.

I mentioned to Senator Danforth that we are having a fairly high level inter agency review of this issue this coming Friday, and I hope the result of that may be some improved communication, so that you in the Congress and everyone in the business community will know precisely where to turn.

I should also say that the Commerce Department has put a great deal of resources into the 1992 issue in terms of both gathering and disseminating information. They have so far served as the principal point of contact for literally thousands of inquiries and have provided answers to thousands of questions. I think they are doing a good job. We may be able to improve on that, but I think the business community in most instances does at this point know where to turn to get the information they need about 1992.

Senator ROTH. Well I think it is critically important that the lines of responsibility be clearly drawn because the most controversial questions are ahead of us rather than behind, and these are questions that can be key unquestionably to our business opportunities in the European Community.

Let me ask you this. What kind of presence does USTR currently have in Brussels?

Mr. BOLTEN. I believe, Senator, that there is only one permanent USTR staffer at the mission in Brussels, Mike?

Mr. DOYLE. That's right.

Mr. BOLTEN. Senator, one permanent USTR staffer in Brussels.

Senator ROTH. At least on the surface, that sounds very inadequate. How many does the Department of Commerce have? Do you know?

Mr. DOYLE. No, I don't know, Senator. But I think the State Department, as a whole, has about 33.

Senator ROTH. Mow many are involved in EC 1992? There may be a total of 33, but that is the total number of State Department personnel?

Mr. DOYLE. Right. I believe so. I think we can give you an answer in writing, Senator, I think we can be more precise about it.

[The information requested follows:]

Including the Ambassador and the DCM, there are 26 officers serving at USEC, seven, including the officer on detail from USTR, serve in the economic and commercial affairs section where all focus to some degree on EC 1992 questions. Five officers drawn from USDA staff the Agriculture Section where, once again, considerable effort is devoted to EC 1992 agriculture issues. Of all the 26 officers at USEC, 15 are from the State Department, 5 from USDA, 4 from USIA, one from Customs and one from USTR.

Senator ROTH. I would like that. And I would also like to be advised as to what the USTR—I guess I can't broaden that since you represent her—as to what seems to be necessary.

[The information requested follows:]

There is a general consensus that more officers could usefully be deployed to USEC and the number of such officers and their origin (agency) is under study.

Senator ROTH. My concerns are in two areas. One is the directives, as they are created by the Commission, which is the EC's bureaucracy. What do we need to follow these developments? I understand that there is not much transparency there until there are issued. And the other area of real concern to me is that of stand-

ards that are created for health, safety, environmental reasons. I understand that a great deal of critically important work from our standpoint will be on those standards. Our beef problem is one example of that. What kind of personnel? I mean, what do we need to be following that development of directives and standards? I think it is critically important. I would like to have your thoughts in that area.

[The information requested follows:]

For the time being, the number of officers at USEC in the agricultural section would appear sufficient to monitor developments in the veterinary and phytosanitary area like the hormones problem.

Senator ROTH. Mr. Chairman, I don't think we can overstress the importance of following these developments because of their critical importance.

One last question. What has been set up in the way of, if anything—and I realize it is early on in this administration—a coordinating body to ensure that there is coordination between GATT and what is happening as far as we are concerned in the European Community? Obviously, it is important that if the EC moves forward with the welfare plans, that it is supportive of the multilateral negotiations. I wonder if anything has been done in this regard internally.

Mr. BOLTEN. Senator, in terms of making sure that what is going on in Europe in the 1992 process is consistent with Europe's obligations under the GATT?

Senator ROTH. Yes.

Mr. BOLTEN. That is a regular question. Not a separate question but a regular question before the inter agency group that has been responsible now for well over a year in closely monitoring the 1922 exercise. It is a question that will be of increasing importance if and as Europe moves to the edges of what we perceive their GATT obligation to be in the 1992 exercise. You can be assured that that will be very much on the minds of all our people working on the 1992 exercise. We hope it will also be on the minds of our trading partners, because to the extent we want to get the Europeans to change anything that they are headed for in 1992, we are much better off trying to do it with multilateral pressure than just U.S. pressure.

Senator ROTH. Thank you, Mr. Chairman.

Senator MOYNIHAN. Thank you, sir.

Senator BAUCUS. Mr. Chairman, just one question. If we were to authorize an additional $5 million, in your judgment what would be the best use of those additional funds in terms of staff resources and what would you dedicate it to?

Mr. BOLTEN. Senator, we don't feel we need those additional $5 million in resources.

Senator BAUCUS. If we were to.

Mr. BOLTEN. I understand your question. I would only be speculating. My assumption would be that Ambassador Hills would want to allocate the resources based on the priorities that she has presented to this committee a couple of times in her testimony: first and foremost, the Uruguay Round, implementation of the Trade Act, and effective implementation of the United States-Canada

Free Trade Agreement. Those are the top three. I think that is where she would want any additional resources the USTR might have to be allocated.

Senator BAUCUS. What about Japan?

Mr. BOLTEN. Japan would, I think, fall into two out of those three categories, because many of our problems with Japan we would hope can be addressed in the Uruguay Round. And many of them also you directed be addressed through provisions of the 1988 Trade Act.

Senator BAUCUS. Thank you.

Senator MOYNIHAN. Senator Packwood.

Senator PACKWOOD. No questions, Mr. Chairman.

Senator MOYNIHAN. Senator Danforth?

Senator DANFORTH. My understanding of what you have told us is that in Brussels there is one person from USTR and 32 people from State, and you don't know how many from Commerce?

Mr. DOYLE. I don't this morning, Senator. We can provide that for the record.

Senator DANFORTH. Pardon?

Mr. DOYLE. I don't this morning, Senator, know that precise number.

[The information follows:]

None.

Senator DANFORTH. Well some people have said that in the conduct of America's trade policy the State Department and foreign policy concerns are weighted too heavily as against commercial interests. Maybe this one person from USTR is just an absolute whiz. You know, some people are. Some people can read a thousand pages in an hour and that kind of thing. Maybe he is some sort of savant who is located over in Brussels representing USTR. Maybe one USTR person is worth 33 State Department people. [Laughter.]

Mr. BOLTEN. No comment,

Senator DANFORTH. A crack organization. It is a very good organization. You have very good people.

I would think that it makes a prima facie case that commercial interests come well to the rear of other concerns when we have 32 people from the State Department and one person from USTR in Brussels. But you have assured me that USTR is doing an adequate job, and you have all the resources you need. I would like to meet this person. Do you know the name of this person?

Mr. DOYLE. Chris Marsage. And he is excellent.

Senator DANFORTH. Who?

Mr. DOYLE. Chris Marsage.

Mr. BOLTEN. Senator, I don't know that Chris has ever been called a savant, but he is a whiz.

Senator DANFORTH. Mr.?

Mr. DOYLE. Marsage.

Mr. BOLTEN. Marsage.

Senator, I think the point here is not how good Chris Marsage is or how outnumbered he is by State Department personnel, but rather that Brussels really is not and should not be the locus for the policy analysis and development on 1992. Brussels should be principally an information gathering post on this.

If we start having policy made out in foreign posts, we could be headed for serious confusion.

Senator DANFORTH. Maybe you are right. We are not talking about policy, we are talking about finding out what is going on, every nuance, so that we understand it thoroughly, and so that our response to it is very well thought out. And I just know from experience of sitting on this committee that there is very little that is done with respect to trade, which, looking over the audience, you don't see several Japanese who are keeping track of everything. I think that if we were to have a hearing on U.S. trade relations with, say, Brazil, there would be representatives of Japan in this room monitoring that hearing. And some people think that they are much more alert to what is going on here than we are alert to what is going on in the rest of the world. And if the big news story now, in so far as the future of U.S. trade relations is concerned is going on in Brussels, it seems to me to make a prima facie case that we are inadequately represented when you tell us that there is one person from USTR and 32 people from the State Department over there. What are those people from State doing? Do you know?

Mr. BOLTEN. Senator, I don't know personally what each of those 32 is doing, but my guess is that practically all of them are in one way or another involved in monitoring the 1992 exercise.

Senator DANFORTH. Some of us on the Finance Committee do not have confidence in the State Department as our representatives or monitors or fact gatherers or anything else relating to international trade. Some of us believe that the position of the State Department is to use trade as a bargaining chip for almost anything else that they want to accomplish. Some of us believe that trade is the first thing that is tossed overboard in order to make deals in matters that have nothing to do with the economic future of this country. And some of us believe, and hope, that the Bush administration is going to begin taking a much tougher approach with respect to the commercial interest of the United States. And to me, this is truly amazing if the State Department has 32 people and USTR has one.

I recognize that the degree of attention cannot be just the number of bodies. There could be useless people, people gumming up the works. But it certainly makes a good prima facie case, that the heavy emphasis of the administration with respect to Europe and trade is that foreign policy considerations have totally eclipsed any trade interest that we have.

Senator MOYNIHAN. May I just point out to my friend from Missouri that earlier Mr. Bolten pointed out to us that one Japanese-American in USTR, Mr. Fukushima, is clearly equal to 10 Japanese and MITI. So we already have that. Senator Roth?

Senator ROTH. Yes. Just to continue forward. I think what the committee needs to know is exactly what kind of team this administration intends to set up, both in Brussels as well as here. And I would point out that the developments is a pretty broad gauge because they involve services, agriculture, and obviously manufactured goods. So that I am very concerned not only that we have adequate resources.

Let me ask you this question.

Generally, on services, I have heard some concern expressed by the service industry, not only with respect to EC integration, but also to GATT, that there is not adequate representation when, in fact, services is really one of our largest exports and potentially much more important.

For the GATT negotiations, what percentage of our personnel are involved in service trade issues? Would you be able to say?

Mr. BOLTEN. I might have to ask Mr. Doyle exactly how many people are working on the services negotiations, but I know we have at least two people who are dedicated to that negotiation within USTR, and they draw on an inter agency working group that has representatives from quite a number of other agencies. That is specifically for the services negotiations, which is one of the 15 working groups in the GATT. Mike?

Mr. DOYLE. I would say it is about four. One in Geneva and three in USTR.

Senator ROTH. How does that compare with agriculture or, say, manufactured goods?

Mr. DOYLE. I don't have an estimate of that this morning, Senator.

Senator ROTH. I must say on the surface, Mr. Chairman, four does not seem very large for as important a sector as that is. And I would like to have some figures of how that compares with the other areas.

Mr. DOYLE. Yes, sir.

[The information requested follows:]

We estimate the overall level of support for the Uruguay Round as follows:

- 47 professional staff in USTR are presently working on one of the 15 negotiating groups either full or part time; measured in man-year terms, we estimate about 30 professional man-years plus 12 support man-years for an overall total of 42.
- 96 man-years of support from the trade agencies through TPSC structure backup the USTR staff in the negotiating groups for a total current level of effort of about 136 man-years.
- Examples of key investments in selected negotiating groups include:
  - —Services—12 man-years (4 in USTR)
  - —Agriculture—8 man-years (2 in USTR)
  - —Tariffs—11 man-years (3 in USTR)
  - —Intellectual Property—11 man-years (3 in USTR)
- In FY 1990, overall we expect the effort to increase by about one-third.

Senator ROTH. One last thing, and I know the Chairman is anxious to move on to other things. But I think it is important to stress that what we are talking about is not only information gathering, as important as that is, but I think it is critically important that both, as a government, and our business and labor, have the opportunity to comment on these various proposals.

As I have said many times before, the foreign governments had adequate opportunity to comment on the development of our trade legislation. I think they have all been in our offices—the ambassadors, and their representatives. There is great transparency in development of key legislation here. And we are not trying to ask for a vote, as some of the European representatives have claimed, but we do think that in the interest of a constructive relationship that it is critically important, both in the formation of directives and the creation of standards, that the views of our business people and private sector be carefully considered. Has consideration been

given to using our business and labor advisory groups for the processing of information "EC 1992"?

Mr. BOLTEN. Senator, there has. We think you are absolutely right, that it is crucial to have active business community involvement in our efforts on the 1992 exercise. The key private sector advisory group for the U.S. Trade Representative's Office is the Advisory Committee on Trade Policy and Negotiations. They have set up a separate task force to follow 1992 closely. It is headed by an executive vice president from General Electric, who I believe is at USTR this very morning for a briefing. We will be working very closely together.

Senator ROTH. If I may make one final comment, because I know that our large international business organizations are pretty competent, particularly in addressing their problems. I think it is equally important that we ensure that medium and Small business have the opportunity to comment and to be involved, because, frankly, we are looking forward to them becoming much more important in the export area. Thank you, Mr. Chairman.

Senator MOYNIHAN. Thank you, sir.

Mr. BOLTEN. Mr. Chairman, if I might say to Senator Roth, there is a Small Business Advisory Committee that will also be brought into the 1992 process. And we will provide for the record written responses to the numbers that you and Senator Danforth are looking for.

Senator ROTH. Thank you.

Senator MOYNIHAN. Mr. Bolten, you have made your debut as a diplomat with great elan and I congratulate you and I thank you, Mr. Doyle. And I believe that is all the questions we have.

Mr. BOLTEN. Thank you, Mr. Chairman.

Senator MOYNIHAN. My apologies to Miss Brunsdale. I have to be in the Foreign Relations Committee and Senator Baucus is going to now resume the chair.

Senator BAUCUS. Miss Brunsdale, welcome to the committee. Why don't you proceed with your statement?

STATEMENT OF HON. ANNE BRUNSDALE, ACTING CHAIRMAN, U.S. INTERNATIONAL TRADE COMMISSION, ACCOMPANIED BY MR. RICHARD ARNOLD, DIRECTOR OF FINANCE AND BUDGET

Ms. BRUNSDALE. Thank you very much, Mr. Chairman, and members of the committee. I am very pleased to be here this morning. I am well aware of the strong support that the ITC has had from this committee over the years, and I regard it as a particular honor to be able to present to you this morning the U.S. International Trade Commission's budget request for fiscal year 1990.

Seated beside me is Richard Arnold, the Commission's Director of Finance and Budget. My fellow Commissioners—Alfred Eckes, Seeley Lodwick, David Rohr, Ronald Cass, and Don Newquist—are also here this morning.

The budget request that I am presenting to you has the unanimous approval of the Commission. It totals $39,943,000 and provides for 502 full-time permanent positions. This amount reflects an increase of $3,985,000 over our fiscal year 1989 appropriation.

Let me emphasize that two-thirds of the increase of $3,985,000 is for non discretionary salary costs, including full funding of our 502 positions, anticipated step increases, promotions and related benefits, as well as funding for the effects of the January 1989 pay raise. The increases do not represent growth in either of our operating or program levels. Rather, they maintain operations at current authorized levels, and provide sufficient resources to allow the Commission to carry out our responsibilities.

The Commission has two primary responsibilities. First, in our quasi-judicial capacity we make injury and causation determinations under the import relief laws. Second, in what I call our "think tank" capacity, we provide assistance, analysis and factfinding studies on trade issues for the executive and legislative branches.

Incidentally, I was reminded of this function as I listened to the very interesting colloquy you just had with Mr. Bolten. Many of the studies we do are requested by the USTR.

It is always difficult for the Commission to project its caseload a year in advance. We are somewhat unique in that we do not generate our own investigations. Rather, we respond to external filings, external requests, and statutorily imposed deadlines.

Our investigative workload, which declined from 239 new investigations in fiscal year 1985 to 92 in fiscal year 1988, is expected to increase both this year and next. Currently, we are projecting 122 new investigations in 1989 and 125 in fiscal year 1990. Let me note that the fact that we have already instituted 59 new investigations in the first 5 months of this year, compared to 20 in the comparable period for fiscal year 1988, suggests that our fiscal year 1989 estimate might be somewhat low.

In addition to expecting a rise in case load this coming year, we also expect the scope and analytical sophistication of our cases to continue to increase. Moreover, the number of work years devoted to each investigation is also likely to increase as a result of the Commission's new programs involving data verification and statistical support.

The Commission is heavily involved in supporting the Uruguay Round of trade negotiations by providing support services and certain 332 studies to the USTR. We are also heavily involved in meeting the requirements of the Omnibus Trade and Competitive Act of 1988. Among other things, that Act requires us to establish a separate Trade Remedy Assistance Office with expanded responsibilities. New legislation also requires us to create an Office of the Inspector General.

During the past year, we have pursued several management initiatives to improve our skills and our investigative and analytical techniques. We have continued recruitment and training efforts to here and maintain a highly skilled staff. We have continued an ambitious audit program designed to review and improve Commission operations, and we have completed an office automation program that has increased the accuracy and efficiency of our work.

The Commission moved to its new residence at 500 E Street, S.W. a little over a year ago. We are very proud of our new building, and we are deeply appreciative of the strong support and authori-

zation that we have had from this committee and from appropriations in this matter.

I think I should note here that not only has the ITC found its new building to be an efficient and a comfortable place in which to work, but so have our fellow agencies in the trade community. Even as we speak this morning the Trade Policy Committee is holding a 2-hour meeting in one of our hearing rooms.

It is sure likely that trade and trade legislation will be at the forefront of our public debate for the next years. As a result, the Commission's quasi-judicial determinations under the trade laws will continue to play a very important role. New trade legislation, changes in trade barriers, continued concerns over the treatment of intellectual property rights, among other things, will all affect the growing demand for sophisticated analysis in import relief investigations, and for factfinding studies requiring greater expertise in both international trade and industrial organization.

We know that it is important that Congress have confidence in the Commission's ability to provide good analysis and data for our trade policymakers and, at the same time, to fulfill its responsibility for investigating claims under the relief laws.

Our budget request for fiscal year 1990 will provide the resources we need for these purposes.

Mr. Chairman, that concludes my oral statement. I would be very pleased to answer any questions you may have. I thank you very much.

[The prepared statement of Ms. Brunsdale appears in the appendix.]

Senator BAUCUS. Thank you, Miss Brunsdale.

Can you give this committee any indication as to whether the White House has indicated whether it intends to name you as Chairman?

Ms. BRUNSDALE. I read in the newspapers about January 20 that the White House had issued a press release indicating its intent to designate me as Chairman of the International Trade Commission. Since then, I have been in touch with the White House a number of times—I am sort of interested in this matter—and I am informed that at the present moment my papers are over at the FBI. So the designation ought to be moving forward fairly soon.

Senator BAUCUS. Do you have any rough estimate as to when that investigation will be complete and when there will be a formal designation? A rough idea?

Ms. BRUNSDALE. Senator Baucus, I don't have any. I think it would be presumptuous for me to guess.

Senator BAUCUS. Could you again explain why you think that you should have the budget that you are requesting, even though in the past couple of years your case load and work level has declined? You roughly went over the rationale during your opening statement, but could you give again the reasons why you think that the additional resources should be authorized?

Ms. BRUNSDALE. Yes, I would be very happy to do that. I think it is a very good question.

As you know, our case load has declined for a number of reasons. I would be very happy to discuss those reasons if you would be in-

terested, but that wasn't your question. The question is: Why do we need the resources we are asking for now?

We are expecting a very large increase in cases this fiscal year. Indeed if we projected out a straight line from where we stand right now, the caseload would reach 145 at year end. This is why I said that I thought that our estimate for this year might be low.

In addition, we have a large number of very complex, interesting, and important 332 cases that we are doing at the request of Congress or the USTR. One of these is a very large study on EC-1992, in which we will describe the directives being adopted to implement the common internal market, will analyze them for their impact on U.S. commercial interests.

We also have a smaller EC-1992 study on procurement, that will discuss how the procurement regulations will affect U.S. interests. We are moving forward on both of these studies. We are moving forward as well with studies and reports in support of the MTN negotiations.

In analyzing our funding needs, it is also relevant to note that the ITC is the Government's think tank on international trade. In order to fulfill this function properly we have to maintain an adequate skill level. For example, our Office of Industries which takes the lead on most of our studies, contains approximately 145 people—industry experts, lawyers, economists, area experts and commodity experts. If we are to serve the Government by providing the studies that will be of interest and use to those who are making trade policy, we have to be ready to respond to requests on a timely basis. It would be difficult to build up the kind of skill bank that we have at the ITC on short notice.

Senator BAUCUS. What are you doing under the Canadian Free Trade Agreement provisions for monitoring subsidies at trade flows? As I recall, one of the additional responsibilities placed on you is just that, that is, to monitor Canadian industries that are subsidized and I think trade flows to all the maybe ex-Commerce Department. I am not sure. Could you refresh my recollection as to what your additional responsibilities are with respect to increased monitoring requirements?

Ms. BRUNSDALE. Well we do have a number of additional responsibilities under the Trade Act. And on this matter I would like, if I may respond in writing because at the present moment I cannot recall the details of the new provisions.

[The following information was received for the record:]

Section 409(b) of the U.S.-Canada Free-Trade Agreement Implementation Act provides a process for identifying industries that are likely to face (1) increased competition from subsidized imports from Canada and (2) a deteriorating competitive position before a more effective international discipline on subsidies has been developed. Three provisions in this section expressly refer to the Commission. The first states that the United States Trade Representative may, after receiving a request from representatives of an industry, recommend to the President that he request a Commission investigation under section 332 of the Tariff Act of 1930 (19 U.S.C. Sec. 1332). The second provision states that the Trade Representative and the Secretary of Commerce shall review information gathered about the identified industry and decide whether an action under section 301 of the Trade Act of 1974 is appropriate. In making that determination, the Trade Representative "may ask the President to request advice from the United States International Trade Commission." The third provision clarifies that any decision by the Trade Representative or the Secretary of

Commerce under this section will not affect any Commission investigations commenced by petition pursuant to any other trade laws.

As yet, the Commission has not received any requests pursuant to section 409(b). Accordingly, the Commission is not presently monitoring subsidized imports from Canada.

Senator BAUCUS. As I recall—maybe it is ITC and maybe it is ITC along with Commerce—but under the Trade Act, there is an additional requirement to monitor trade subsidies of industries as well as trade flows in the United States. And it seems to me that that is going to require an additional workload as far as to the degree that that requirement is there.

Ms. BRUNSDALE. Yes. Indeed it will.

Senator BAUCUS. And I am quite certain that that requirement is there.

Ms. BRUNSDALE. There is also I believe a requirement for the United States and Canada to get together over the next years and gradually work out sort of understandings on how to deal with subsidies.

Senator BAUCUS. Yes. This provision is important with respect to the Canadian Free Trade Agreement because, frankly, I initially opposed the agreement. And Senator Danforth and I both had very deep reservations about the proposed Free Trade Agreement. And I finally supported the Agreement because of deprivation in the law, that is, that it set up a very aggressive intensive monitoring provision over Canadian subsidies and trade flows. And we did so because many, as you know, Canadian industries are subsidized much more than are American industries, and if we are going to make this trade agreement work—and, more personally, we are going to justify my support of the agreement—it would be very helpful if those provisions are In fact utilized to the hilt. So I strongly encourage you to go back and be sure that those provisions are being followed very aggressively.

Ms. BRUNSDALE. Thank you. I will surely see to it.

Senator BAUCUS. At this point too I would like to recognize the other Commissioners. As you know better than anyone, your agency enjoys a very unique relationship with the Congress, that is, your budgets do not go over to OMB, as do the budget submissions of USTR and I think virtually every other federal agency. And it is an agency we respect very much. And I just wanted to acknowledge the presence of other Commissioners at this hearing. Senator Danforth.

Senator DANFORTH. Madam Chairman, I can remember from my early years on the Finance Committee the very strong position that Senator Long used to take with respect to the ITC. He was a great champion of the Commission. And both at these hearings and privately in his conversations with members of the Finance Committee, he would talk about the special role that was played by the Commission and its importance. And the fact that even though it is very important, sometimes we tend to lose it in the shuffle. And I was impressed by Senator Long's comments, and have viewed myself as kind of an heir to Senator Long's interest in the ITC. And we fought the battle to get you moved from that rat trap that you inhabited for a long time. And as I recall, for about 10 years or so, no improvements were made to your building, and it was al-

lowed to deteriorate because the belief was the move was imminent. Now it has occurred and you are satisfied with your new space.

But I think that it is important for us in the Senate, for us in Congress, to recognize the role that your Commission plays. It is an essential role. We count on you to do the professional work, not to be grinding some philosophical ax but to really do the professional work of handling your cases and of conducting the studies which you are asked to conduct.

I am sure that what Congress did on the pay:raise is something that was noted by your Commission. Let me ask you, has it become more difficult or is it relatively easy to attract the qualify of the people that you want to attract to do a first-rate job?

Ms. BRUNSDALE. It depends on what profession we are talking about. Of course, it varies from profession to profession. And generally, those professions that have a high rate of pay on the outside world, well in those professions we find it more difficult to hire into the Government. Or we will hire somebody who will come to us for a couple of years oF experience and then move on. That occurs in the field of law. That occurs in the field of economics, research economists. They seem to be in many ways the second most highly paid group in the world. And at the very top executive level, it is more difficult to hire, I think—and this would be my personal opinion, Senator—than it would have been 3 or 4 or 5 years ago.

Senator DANFORTH. Do you still host lunches?

Ms. BRUNSDALE. We are inviting you right now to come to lunch.

Senator DANFORTH. I think we should take them up on that, Mr. Chairman. A number of years ago, the ITC invited the members of the Finance Committee to lunch and a number of us went to lunch. And I think it is important for two reasons. One, I think it is important for us to know what you do. We have a general knowledge of what you do, but to have a sense of what that resource is, and how it keys in to what we do and what our Government does with respect to international trade.

And, second, I think that it is important for us to let you know how important you are. And I think that a lot of people lose sight of the ITC, and that it is very important to keep you in sight.

So you are convinced that what you are asking for is adequate?

Ms. BRUNSDALE. Yes, I am convinced it is adequate and I am convinced that it is necessary.

Senator DANFORTH. Do you think you can continue to do a first-rate job with these resources?

Ms. BRUNSDALE. Yes, I do, Senator.

Senator DANFORTH. What do you serve for lunch? [Laughter.]

Ms. BRUNSDALE. We will engage in a negotiation with you. How is that?

Senator DANFORTH. Thank you very much.

Ms. BRUNSDALE. Thank you very much for your interest.

Senator BAUCUS. Miss Brunsdale, I think that that idea is an excellent one and for the reason Senator Danforth suggested. It has been my experience too that most Members of Congress know very little about the ITC. Indeed, members of this committee do not know nearly as much as I believe we all should. And I think all of us would look forward to an invitation at your convenience to sit

down and go over some of these matters. I think it is an excellent idea.

Ms. BRUNSDALE. It will be our great pleasure to extend the invitation.

Senator BAUCUS. Thank you very much.

I have no further points or questions either. Thank you all for coming to the hearing. The hearing is adjourned.

Ms. BRUNSDALE. Thank you.

[Whereupon, at 11:15 a.m., the hearing was concluded.]

APPENDIX

ALPHABETICAL LIST AND MATERIAL SUBMITTED

JOSHUA BOLTEN

GENERAL COUNSEL AND ACTING DEPUTY U.S. TRADE REPRESENTATIVE

Mr. Chairman, it is a pleasure to appear before you this morning to present the Fiscal Year 1990 budget authorization request for the Office of the United States Trade Representative. This committee has always been most supportive of the work of the USTR.

The request asks for a two - year authorization with a sum of $16,830,000 in FY 1990. The FY 1991 level would be determined in the next appropriation cycle. Our request includes a higher limit of representation funds to be consistent with the FY 1990 budget request of $89,000. It continues the no-year spending authority of up to $1,000,000 as a method for insulating the USTR from swings in currency exchange rates which affect the budget of our Geneva, Switzerland office.

The request represents an increase of $1,601,000 over the FY 1989 appropriation level of $15,229,000. The recurring portion of the request is $16,700,000. We are also requesting a total of 152 positions, which is six above the current level of 146.

In percentage terms, the request represents a gross increase of eleven percent over the FY 1989 base in dollars and a four percent increase in staffing. We believe these amounts will be sufficient to support the work we have planned for the next fiscal year.

USTR Capacity To Handle Increased Workload

I know this committee has some concern about the capacity of USTR to handle the work contained in the 1988 Trade Act for which it is assigned responsibility, the follow-through required in implementing forcefully the U.S. Canada Free Trade Agreement, and still complete the Uruguay Round of multilateral trade negotiations. How can this be done by an agency of only 146 permanent staff -- or even a staff of 152, if our FY 1990 appropriation request is approved by the Congress ?

There is no doubt that the USTR has a full plate of challenging work over the next few years. We are confident, however, that we can get the job done. Let me cite a few important reasons.

- First, USTR is the nerve center of a sizeable interagency trade community -- numbering over 500 people in over 20 agencies -- who participate actively in the interagency trade policy process. That group represents a substantial reservoir of support to USTR which is tapped issue by issue on a daily basis through the Trade Policy Staff Committee and its 40 sub-committees. It has quite a degree of elasticity -- in responding to USTR needs.

- Second, the trade agencies frequently detail staff to USTR directly to work on issues on a longer-term basis -- typically for one year or more. Presently, USTR has 25 details on-board from 10 agencies. 17 of them are non-reimbursable. Shortly, we will begin a round of discussion with key trade agencies to seek increased support from them for the Uruguay Round in FY 1990 and FY 1991.

- Third, the Congress has provided significant support for the Uruguay Round to other agencies. Commerce got $4 million and 72 positions in the FY 1988 cycle to support USTR in the Round. USDA's Economic Research Service had $750,000 earmarked in the FY 1989 cycle for support to USTR.

- Fourth, USTR is a policy shop, whose priorities and efforts shift somewhat as the Administration's policy priorities shift. The enormous energy that went into working with the Congress on the 1988 Trade Act and U.S.-Canada Free Trade Agreement, will this year be applied to their implementation. We don't intend to let any balls drop.

- Fifth, USTR has become more productive in the last few years. This committee has supported appropriations which allowed us to upgrade the amount and quality of our computer, telecommunication and office automation assets. USTR professional staff take full advantage of this environment to maintain their responsiveness to the demanding level of work.

- Last, USTR has and will ask for additional funds and positions when we think they're absolutely necessary. That is the case this year. However, USTR prefers to remain as small as possible. We think this is consistent with our mission and philosophy. The essence of USTR's mission is to lead and coordinate other trade agencies in the development of sound trade policy and the implementation of effective trade negotiations.

Overall, USTR is in good shape to handle the future. Let me turn now to a specific discussion of our FY 1990 request.

Program Increase -- Uruguay Round

USTR has approached Uruguay Round staffing with a belief that, in the early going, it is most effective and efficient to minimize the build-up of Geneva staff. Given the wide range of non-tariff issues as compared with the Tokyo Round, Washington-based negotiators and experts have gone to Geneva as required to move the process along. This approach, thus far, has served U.S. trade interests well.

In Washington, we established a team structure organized around the 15 negotiating groups. Each team has been headed by a USTR policy coordinator and a chief negotiator. Some of the negotiators are from other trade agencies. The work has been carried out under the direction of USTR's chief coordinator for the Uruguay Round. 105 meetings were held in Geneva in FY 1988. Additional effort has been spent visiting key capitals to inform and consult with other governments whose support we need in Geneva. This strategy has proved effective, but the pace of work at the technical level has to increase significantly to support a successful conclusion by 1990.

We expect a significant increase in the pace of activity in Geneva by mid - FY 1989 and FY 1990. Our commitment of additional staff in Geneva will be guided by the level of activity in the 15 individual negotiating groups during FY 1989 and FY 1990. On average, groups met six times each during FY 1988. We expect the average to be seven meetings in FY 1989 and nine in FY 1990. We expect the length of these meetings to increase from five to seven days in FY 1989 and ten in FY 1990. In addition, we expect a substantial increase in informal negotiating sessions (bilateral, plurilateral).

We expect a further increase in the pace of our consultations in key capitals to support U.S. objectives in the Round, as well as periodic regional briefings of U.S. embassy staffs. Other cost increases will stem from public hearings as part of the mandate to consult extensively on Uruguay Round objectives and strategy.

Because of our increased responsibilities and staffing needs arising from the second half of Uruguay Round negotiations, USTR is requesting an additional $1,379,000 and six positions for FY 1990. $130,000 is non-recurring in FY 1991. Staff costs would total $743,000 inclusive of benefits. Some additional man-years will be posted in Geneva; some will be staff on extended per diem.

We estimate presently that five professional man-years will work on the tariff negotiations and seven on non-tariff issues (e.g., agriculture, services, intellectual property). We expect most of the tariff professionals to be drawn from Commerce (ITA), the ITC and other trade agencies. We expect the non-tariff staff to be drawn from USTR and other trade agencies. Four man-years would be support staff. The Round is scheduled to conclude during FY 1990. Staff will be needed to wrap up the Geneva effort after it ends -- hopefully no later than the end of FY 1991.

Other non-staff costs include $216,000 for travel and transportation; $270,000 for other services; $130,000 for equipment; and $20,000 for representation. The travel and transportation increase is due to several factors. First, it offsets partially the loss of funds from the State Department/International Organization conference account. We had hoped that State would find some way to restore the FY 1986 level of funding. State has not yet been able to do so. State provided $335,000 in FY 1986,

$175,000 in FY 1987, and about $180,000 in FY 1988 for USTR delegates. Second, it reflects costs associated with the movement of staff to Geneva. Third, the increase also reflects the assumption that while USTR will have additional staff at post in Geneva for 1990, we will still require additional funds for travel between Washington/Geneva and other key capitals to further U.S. Uruguay Round objectives.

The other services increase of $270,000 ($255,000 recurring; $15,000 non-recurring) is composed of $100,000 for additional trade data and analytical support to negotiators needed during the critical negotiating phases: $135,000 is for overhead costs associated with the buildup in Geneva including, principally, additional charges from the State Department; $20,000 is needed to cover increased transcriber costs associated with the public hearings on the Uruguay Round. $15,000 (non-recurring) will be needed to add seven workstations in Geneva.

USTR proposes three limited equipment initiatives to secure the adequate protection and communication of sensitive trade policy information during the second phase of the Uruguay Round. The amount requested totals $130,000 of which $115,000 will be non-recurring.

-$50,000 in non-recurring funds are requested to equip selected senior staff in Washington and selected offices with secure voice units (10). In Geneva, we intend to equip certain professional staff with secure voice units (3) because of the greater threat level. These units are in addition to the eight units we will have in place with FY 1988/1989 funds.

-$30,000 in non-recurring funds are requested for one secure portable computer and communications systems that protect

classified and sensitive materials transmitted to USTR Washington; and an NSA authentication/encryption package that protects dial-in lines to the unclassified computer. This item is for USTR's unclassified system; it is to meet the requirements of the Computer Security Act of 1987.

-$35,000 in non-recurring funds are requested for one Tempest personal computer in Washington; three additional printers, two shredders and ten switchboxes will also be needed to reflect increased activity levels by 1990. $15,000 in recurring funds will be needed for maintenance of the equipment.

FY 1990 Adjustment To Base

$258,000 is requested to cover adjustments to the FY 1990 recurring base of $15,193,000 requested for FY 1989. The only item covered in the requested increase is the additional FAAS costs to USTR which will result from the State Department policy change in treating FAAS costs. That amount is $274,000. This change is proposed to take effect in FY 1990. USTR expects to absorb a portion of this cost and other pay and inflation related costs within its base.

Conclusion

This budget request will allow us to accomplish our objectives, while remaining lean and efficient. We will succeed in the Uruguay Round and in other key areas of trade policy only if we have a coordinated interagency effort that draws efficiently on the capable resources lodged not only at USTR, but also in the other agencies with trade expertise. We are looking forward to a continuation of a high level of support from and cooperation with these agencies.

Mr. Chairman, this concludes my prepared testimony. I will be happy to answer your questions.

STATEMENT OF ANNE BRUNSDALE, ACTING CHAIRMAN
UNITED STATES INTERNATIONAL TRADE COMMISSION
BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE
U. S. SENATE
MARCH 8, 1989

Mr. Chairman and members of the Subcommittee, I am pleased to be here today to present the U.S. International Trade Commission's budget request for fiscal year (FY) 1990. Seated beside me is Richard Arnold, the Commission's Director of Finance and Budget. Commissioners Alfred Eckes, Seeley Lodwick, David Rohr, Ronald Cass, and Don Newquist also are here today.

The Budget Request

The budget request that I am presenting has the unanimous approval of the Commission. It totals $39,943,000 and provides for 502 full-time permanent positions.

In developing this budget request, the Commission examined its needs and made every effort to improve our utilization of resources. The increases do not represent growth in either program or operating levels. Rather, they maintain Commission operations at current authorized levels, and provide sufficient resources to allow the Commission to accomplish its mission.

It is always difficult to anticipate all of the demands that will face the Commission 12 to 18 months in the future. Due to the heightened uncertainty of our investigative caseload this year and the additional tasks placed on us by new legislation, it would be premature to request a change in authorized resource levels at this time.

The $39,943,000 represents an increase of $3,985,000 (or 11%) over our FY 1989 appropriation. Two thirds of this increase (or $2,598,000) is for nondiscretionary salary costs, including full funding for our 502 positions, anticipated step increases, promotions and related benefits, as well as funding for the effects of the January 1989 pay raise. The balance of the increase ($1,387,000) is for necessary support services.

The Commission's substantive responsibilities involve cases under the import relief statutes and studies and reports under section 332 of the Tariff Act of 1930 (19 U.S.C. § 1332). Our total investigative workload, which declined from 239 investigations instituted in FY 1985 to a low of 92 investigations

in FY 1988, is expected to increase in FY 1989 and FY 1990. The Commission recently projected some 122 new investigations for FY 1989 and 125 for FY 1990. Data through the first five months of FY 1989 suggest that our estimate for FY 1989 may be somewhat low.

In addition to our regular investigative workload, the Commission is heavily involved at this time in providing support to Executive Branch efforts on the GATT-sponsored Uruguay Round of trade negotiations and in meeting the requirements of the Omnibus Trade and Competitiveness Act of 1988.

Import Relief Investigations

The largest part of our caseload consists of investigations under the antidumping and countervailing duty statutes (section 303 and title VII of the Tariff Act of 1930, 19 U.S.C. §1303, 1671 et seq.). 1/ The title VII caseload, which declined from 185 new investigations in FY 1985 to 65 in FY 1988, is expected to increase. We project that 75 new title VII investigations will be instituted in FY 1989 and 75 in FY 1990. In the first five months of FY 1989 the Commission instituted 43 title VII cases compared to 11 during the comparable period for FY 1988. This suggests, as I indicated above, that our FY 1989 projection may be low.

The Omnibus Trade and Competitiveness Act of 1988 amended portions of the antidumping and countervailing duty statutes in ways that may increase both the number of cases filed and the amount of Commission effort required in conducting the investigations. For example, new provisions add a number of factors, such as the impact of imports on research and development efforts by domestic industries, to be considered in assessing injury or threat of injury. The Act also requires the Commission to release under administrative protective order (APO) a much

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1/ There are two ways to count the title VII case load -- by investigation numbers and by petitions (i.e., by product line). In the case of title VII, a single petition is given one investigation number for each foreign country covered by the petition and sometimes one for each separate major product, even though typically a single investigative team does all the work, a single hearing is held, information is collected from the same group of domestic producers, and a single report is produced. Thus, counting investigation numbers will give a higher workload figure than counting petitions.

For example, in FY 1986, the Commission instituted 158 title VII investigations covering 87 petitions (product lines.) In FY 1987, 99 investigations were instituted covering 55 petitions. And in FY 1988, the Commission instituted 65 investigations for 33 petitions. As the data indicate, the product-line approach reflects a declining caseload at a rate consistent with the decline when counted by investigation numbers.

broader range of data to a broader class of requesters than was required previously. That is, the Act requires release of all business proprietary information presented to or obtained by the Commission during a title VII investigation, whereas in the past the Commission released only the price and cost-of-production data of those firms supporting the petition. While the Commission's experience with administering this new provision is still limited, preliminary indications are that additional resources are being used.

In addition to the expected rise in caseload in FY 1989, we also expect the sophistication of the analysis required by our cases to continue to increase. Moreover, the Commission's new programs involving data verification and statistical support will increase the number of workyears devoted to each investigation.

Some of the Commission's more publicized cases are the so-called fair-trade cases -- that is, cases in which petitioners need not allege any unfair trade practice in order to obtain import relief. These import relief petitions are filed under sections 201 and 406 of the Trade Act of 1974 (19 U.S.C §§ 2251 and 2436). Section 201 is known as the "escape clause." In section 201 investigations, the Commission determines whether domestic industries are eligible for import relief and recommends appropriate action to the President. In addition, under section 204 of the Trade Act (19 U.S.C. § 2254), the Commission conducts "review" investigations and reports to the President on the probable economic effect of modifying, extending, or terminating the relief previously provided by the President as a result of a section 201 petition. Section 406 of the Trade Act of 1974 authorizes section 201-type investigations on market disruption from imports from nonmarket countries.

During FY 1988, the Commission instituted one escape-clause investigation and one review investigation. We project two escape clause investigations for each of FY 1989 and FY 1990. In addition, the Omnibus Trade and Competitiveness Act of 1988 might increase the Commission's effort in connection with the escape clause provisions. For example, a new provision authorizes expedited determinations 21 days after a petition is filed in cases involving perishable agricultural products, provided that certain monitoring has been underway for at least 90 days. The precise impact of the new law on Commission activity is uncertain at this time.

The Commission expects that significant resources will continue to be devoted to investigations under section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337). These investigations are based on complaints alleging unfair methods of competition and unfair acts in the importation or sale of articles into the United

States, typically, the infringement of an intellectual property right, such as a patent, trademark, or copyright. Currently, the Commission is concluding significant investigations involving EPROMs (erasable, programmable computer memory components) and in the area of biotechnology.

We project that 24 new section 337 investigations will be instituted in FY 1989 and 28 in FY 1990, compared to 11 in FY 1988. During the first five months of the fiscal year, we instituted four such investigations. Another four complaints have been filed since the end of January. It should be noted that the number of section 337 investigations instituted does not, of itself, accurately reflect workload. The complexity of the technology at issue, the number of alleged unfair acts, and the level of staff participation required in each investigation must be taken into account.

The Omnibus Trade and Competitiveness Act of 1988 amended section 337 in several significant respects. In investigations involving the alleged infringement of statutorily protected intellectual property rights, it removed the requirement that a domestic industry prove economic injury as a result of the alleged unfair act, and it expanded the definition of domestic industry. The Act also authorized the Commission (1) to order seizure and forfeiture of articles under certain conditions, (2) to issue limited exclusion and cease-and-desist orders against respondents that fail to appear in section 337 investigations, and (3) to impose greater penalties for violation of cease-and-desist orders. Moreover, if a section 337 complaint includes a request for temporary relief, the Commission must now render a decision on such relief within 90 days (or 150 days in more complicated cases) and may require complainants to post bonds in order to obtain temporary relief. As a result of these amendments, section 337 investigations should be less costly for complainants in most instances.

Studies and Reports

The Commission frequently receives requests from Congress or the President to conduct investigations on trade and tariff issues under section 332 of the Tariff Act of 1930 (19 U.S.C. § 1332). We expect requests to institute 18 new section 332 studies in FY 1989 and 18 in FY 1990, compared with 12 in FY 1988 and 11 in FY 1987. All of the studies instituted in FY 1988 and FY 1987, as well as in the first five months of FY 1989, were the result of a congressional or a presidential request.

We now have 13 section 332 studies underway, 7 of them requested by the President and 6 by Congress. Among the studies requested by the President are Service Sector Profiles and Barriers to Trade in Services; Agricultural and Tropical Products--Literature Search Regarding Trade Distortions and Effect of Trade Liberalization, and Calculation of Tariff Equivalents; United

States/Israel Free-Trade Agreement--Probable Effects on U.S. Industry and Consumers of Certain Remaining U.S. and Israel Tariff Reductions; and Probable Economic Effects of Providing Duty-Free Treatment for Watches under the Generalized System of Preferences.

Studies currently underway at the request of Congress include Western Steel Market--Analysis of Market Conditions and Assessment of the Economic Effects of the Voluntary Restraint Agreements on Steel-Producing and Steel Consuming Industries; Pros and Cons of Initiating Negotiations on a U.S.-Pacific Rim Free Trade Agreement; Effects of Steel VRAs on Steel Consuming Industries; Economic Effects of Significant U.S. Import Restraints; and Effects of Greater Economic Integration within the European Community on the United States.

In FY 1988, we completed a number of significant projects. They included five global competitiveness analyses requested by Congress -- on textile mills, steel sheet and strip, U.S. automotive parts, oilseed and oilseed products, and optical fibers, technology and equipment. We also completed two studies requested by the President -- the effect of foreign protection of intellectual property rights on U.S. industry and recent Japanese measures to promote structural adjustment.

Other studies completed in FY 1988 included four requested by Congress -- the use and economic impact of TSUS items 806.30 and 807.00, benefits to U.S. consumers from temporary duty suspensions in the Trade and Tariff Act of 1984, implications of foreign-trade zones for U.S. industries, and the pros and cons of initiating negotiations with Japan on the possibility of a U.S.-Japan free-trade agreement -- and one study requested by the President -- the continuity of import and export trade statistics after implementation of the Harmonized System.

Some of the technical support that the Commission provides to the United States Trade Representative in the Uruguay Round of trade negotiations is in the form of formal reports requested under section 332. We expect this to be a major activity over the next two to three years. In addition, the Omnibus Trade and Competitiveness Act of 1988 opens the possibility of a number of new types of 332 investigations, including the monitoring of "downstream" product dumping and additional monitoring related to "escape clause" actions. The extent to which these provisions will generate additional work is unknown at this time.

The Commission will continue to play an important role with respect to the Harmonized System. During FY 1987 and FY 1988, much of our effort in this area was focused on the conversion of the U.S. customs tariff into the nomenclature structure of the Harmonized System. This effort culminated in the publication of concordances and trade tables providing U.S. import and export trade data for the past five years in terms of the Harmonized

System. Beginning with FY 1989 and FY 1990, the Commission will publish the Harmonized Tariff Schedule, a document similar in size and complexity to the old TSUSA. We expect that Commission staff will continue to be called upon to provide advice and assistance on these matters.

The Omnibus Trade and Competitiveness Act of 1988 provides for new Commission activities with respect to the Harmonized System, including investigations (1) to recommend changes to the Harmonized Tariff Schedule resulting from sustained Customs protests, (2) to recommend to the President ways of modifying the Harmonized Tariff Schedule to implement international agreements that promote uniformity, ensure modernization, alleviate administrative burdens, and make technical corrections, and (3) to assess the operation of the U.S. Harmonized System after its first year.

The Commission continues to produce periodic reports on specific topics as required by presidential proclamation or other legal requirement. In FY 1988 these included reports on nonrubber footwear, rum, autos, tungsten, and the performance of the steel industry. Copies of these reports are provided to Congress, the Executive Branch, and other agencies, as well as to requestors outside the Government.

In addition to these reports and studies, the Commission provides numerous background reports on proposed legislation to the Commission's oversight committees, as well as a great deal of informal assistance. The number of such reports was over 100 in FY 1988. This demand is expected to continue.

New Offices within the Commission

The Commission projects an increase of four positions and related costs in FY 1990 to staff the new Trade Remedy Assistance Office and the Office of Inspector General. For FY 1990, the costs of these new and expanded activities will be absorbed within the Commission's request for full funding of its currently authorized positions of 502 full-time positions.

Trade Remedy Assistance. Pursuant to the Trade and Tariff Act of 1984, the Commission established a Trade Remedy Assistance Center (TRAC) to provide (1) general information to the public on remedies available under the trade laws and (2) technical assistance to eligible small businesses concerning petition and application procedures under trade remedy laws administered by the Commission. During FY 1988, TRAC received approximately 230 inquiries from small businesses, Congress, government agencies, law firms, trade associations, the press, and academia.

The Omnibus Trade and Competitiveness Act of 1988 expands the scope of the assistance previously furnished through TRAC. The Act requires the Commission to establish a separate Trade Remedy Assistance Office to render technical assistance, up through appeals to the administering agency (including informal legal advice), to eligible small businesses seeking remedies and benefits under certain trade laws administered by the Commission and other federal agencies. We expect that the number of requests for information and technical assistance from small businesses will increase in FY 1989 and FY 1990, particularly in view of the Act's requirement that the Small Business Administration facilitate access to the Trade Remedy Assistance Office.

The Commission officially established the new Trade Remedy and Assistance Office on November 8, 1988 and staffing for the new office is nearly complete.

Office of Inspector General. The Inspector General Act Amendments of 1988 require the Commission to establish and maintain an independent Office of Inspector General by April 16, 1989. The Commission officially established the Office of Inspector General on February 3, 1989. We expect the ITC's Inspector General to be on duty soon, and an additional staff position should be filled soon thereafter. This office will require separate space and support services equivalent to those provided to other offices within the Commission. The establishment of an IG function at the Commission is an enhancement of our current internal audit function, which is provided by contract with a public accounting firm.

Litigation Workload

The Commission has authority to appear in court on its own behalf, rather than refer cases to the Department of Justice. The size and complexity of the Commission's litigation caseload has increased steadily since the early 1980s, from 39 active cases in January 1984 to 60 cases pending before the courts on December 31, 1988. Although the number of cases may diminish slightly in the near term, the Commission expects its litigation caseload to increase from the current level over the course of the year.

Relocation

Public Law 98-523 (October 19, 1984) authorized the transfer of the U.S. International Trade Commission's building at 701 E Street, N.W. to the Smithsonian Institution and required the General Services Administration to relocate all Commission functions in a single, downtown Washington, D.C. building. We completed our move into our new headquarters at 500 E Street, S.W., in January 1988. This is the first time since 1975 that all parts of the Commission have been at a single location. The Commission and its staff appreciate the strong support of our authorization and appropriations committees in this matter.

General Accounting Office Recommendations

The General Accounting Office made several observations during the review of the Commission that it completed in February 1987. As a result, new procedures have been implemented in the areas of procurement, the safeguarding and handling of security information, and the safeguarding and handling of confidential business information. The Commission is reviewing its information resources management responsibilities and its methods of verifying data. Also, we continue to examine our questionnaire process.

Conclusion

It is likely that trade and trade legislation will remain in the forefront of public debate for several years. As a result, the Commission's quasi-judicial determinations under the trade laws will continue to play an important role. In addition, the new round of trade negotiations begun in Punte del Este in 1986 have created new demands for comment and advice. Finally, new trade legislation, the implementation of the Harmonized nomenclature, changing trade barriers, continued concerns over the treatment of intellectual property rights, among other things, will all affect the growing demand for sophisticated analysis in import relief investigations and for fact-finding studies requiring greater expertise in both international trade and industrial organization.

It is important that Congress have confidence in the Commission's ability to provide sound analysis and data to trade policy makers and at the same time to fulfill its responsibility for investigating claims under the import relief laws. The Commission's budget request for fiscal year 1990 will provide sufficient resources to meet these demands.

I will be pleased to answer any questions you may have.

Thank you.

RESPONSE OF ANNE BRUNSDALE, ACTING CHAIRMAN1/
U.S. INTERNATIONAL TRADE COMMISSION
TO QUESTIONS FROM SENATE FINANCE COMMITTEE

QUESTIONS SUBMITTED BY SENATOR LLOYD BENTSEN

QUESTION

1. The 1988 Trade Act requires the ITC to disclose under administrative protective order information used in Title VII investigations. What had been the experience of the ITC in administering this provision so far? Has the fact that the petitioners and respondents are better informed regarding the information that the ITC is relying in making its decisions improved the nature of the debate before the ITC?

RESPONSE

A definitive conclusion regarding the Commission's experience in administering the new protective order provisions under Title VII would be premature at this time inasmuch as we have not yet observed their application throughout a preliminary and final investigation. It is not clear whether the problems that we have experienced to date are merely "learning curve" problems that will diminish over time as our procedures are refined and the parties become more familiar with them, or are more permanent in nature and will continue to recur. My personal opinion is that the problems with release of confidential business information to date are attributable to parties' lack of familiarity with the procedures, and that the frequency and severity of mishaps will decline over time.

Almost all of our experience to date has involved either preliminary investigations or final investigations where the preliminary investigation was conducted before the enactment of the new protective order provisions. Commissioners may differ about the benefits of the new provisions. I have some doubt that these provisions will significantly improve the nature of the debate because the tight deadlines in those cases make in-depth evaluation of the data by the parties quite difficult. However, I have found that in final investigations, as Congress anticipated when it mandated the release of confidential business information, the parties' arguments before the Commission have been enhanced substantially, because parties have a common set of data on which to base their arguments and because each of them is equipped with a complete set of those data.

1/ Pursuant to 19 U.S.C. 1331(a)(3), the views stated herein are those of Acting Chairman Brunsdale and not necessarily those of the U.S. International Trade Commission.

The new protective order provisions do impose some additional costs on the Commission, in terms of both staff work hours directed to protective order problems and photocopying costs for providing copies of the confidential record to all parties. In investigations involving a relatively small number of parties and/or more limited product coverage, the protective order provisions have presented only minor problems. Thus, the costs to the Commission in implementing the new protective order provisions have been concentrated in a few large and complex preliminary investigations but have been negligible in smaller investigations and in finals. I believe that the problems the Commission has seen in the larger, more complex cases will begin to subside as the Commission and the parties develop more experience with the new provisions.

The Commission issued regulations governing the release of confidential business information in August 1988, soon after passage of the 1988 trade legislation. It has since modified those regulations to correct problems with the first version. The Commission will continue to work seriously, responsibly, and, I believe, effectively to implement the new provisions. Both Commission staff and the trade bar are involved in this effort.

QUESTION

2. What is the practice of the ITC in disclosing confidential information to in-house counsel in section 337 investigations? Are they treated the same as they are in antidumping and countervailing duty cases? What is the justification for any difference?

RESPONSE

It has been the Commission's consistent practice in section 337 investigations not to grant in-house counsel access to confidential business information unless all the parties agree to grant in-house counsel such access. This was also the Commission's practice in Title VII investigations until the decision of the U.S. Court of Appeals for the Federal Circuit in United States Steel Corp. v. United States, 730 F.2d 1465 (Fed. Cir. 1984). That decision established in the courts that review Commission decisions the practice of releasing confidential information in Title VII investigations to in-house counsel not involved in competitive decision-making. The Commission subsequently adopted the same practice. The Conference Report to the Omnibus Trade and Competitiveness Act of 1988 noted Congress' approval of the U.S Steel decision as it applies to Title VII investigations. H.R. Rep. 576, 100th Cong., 2d Sess. at 623 (1988).

SEN. MOYNIHAN CHALLENGES CLASSIFICATION
OF TRADE PROJECTIONS REPORT

Sen. Daniel Patrick Moynihan (D.-N.Y.) today wrote to Senate Finance Committee Chairman Lloyd Bentsen (D.-Texas) challenging the decision of the Administration to classify the projections in the first Annual Trade Projection Report, and urged that hearings be held on the issue by the Committee.

A provision in the Omnibus Trade and Competitiveness Act of 1988, sponsored by Sen. Moynihan, requires the Department of the Treasury and the Office of the United States Trade Representative to issue a yearly report detailing official projections of the trade deficit, economic growth, fiscal balances, external indebtedness, and other estimates.

This year's report, submitted to the Finance Committee on March 1, contains classified numerical data and therefore cannot be discussed in public.

DANIEL P. MOYNIHAN
NEW YORK

United States Senate
WASHINGTON, DC 20510

March 8, 1989

Dear Mr. Chairman:

I am sure you have now had the opportunity to review the first "Annual Trade Projection Report" submitted to the Finance Committee by the Secretary of the Treasury and the United States Trade Representative on March 1.

As you will recall, you forcefully argued the position of the Senate on the need for such a report during the conference on the Omnibus Trade bill despite strong opposition from the Administration. In offering the amendment requiring such a report, I was of the view that the gross misunderstanding of former Secretary of the Treasury Regan that a "strong dollar meant a strong America" should not be repeated. I know that you shared my concerns in this regard.

I feel quite certain that if, for example, the Secretary of the Treasury and the USTR had been required to come before our Committee in March 1983 and project that our current account deficit would exceed $100 billion at the end of 1984 our government, and the American public, would have reacted more quickly and more forcefully. It took until September 1985 for the Administration to drive down the dollar. In 1981 we had a current account surplus. A deficit exceeding a $100 billion is now a fixture of our economy.

At a minimum, the report requirement would have forced the Secretary and the USTR to think about the significance of the radical economic departure that was created for our economy in the early 1980s, the consequences of which are still very much with us. And we on the Finance Committee would have been able to insist that they explain why such projections should be accommodated.

In the end, we succeeded in enacting into the Omnibus Trade bill a very useful reporting requirement. Although the first report is a weak attempt, I am hopeful that it will improve in future years.

However, there is one very disconcerting aspect to this report and I think an abuse of the statute. At the time the legislation was written, the Administration did not want to be required to project exchange rates - arguing that this would have an impact on the currency markets. And although I had some doubts about whether we should accede to such a request, I did so before I offered my amendment on the Senate floor. In the same spirit, the statute specifies that information may be submitted in confidence by the Secretary and USTR.

However, the Secretary and USTR have used this authority to designate <u>every</u> projection as confidential. Projections on the size of the trade deficit, economic growth, fiscal balances, external indebtedness, etc. And not just for the United States, but for all countries including Canada, the EC, Japan, Latin America, Arab OPEC, etc. I submit that this is not what we intended. How are we to question the Administration on their projections at the hearing provided for in the statute, or other suitable hearings, if we cannot discuss them in public?

Treasury now takes the position that any projections, any projections at all, would raise national security considerations. We are asked to believe that any number projected would "have currency market impacts" or "compromise U.S. negotiating positions" or "offend other foreign nations." The markets, however, have long since figured these things out for themselves. Or how about the OECD which routinely makes these projections. By this logic we should classify the reports of OMB and CBO which project the fiscal deficit and other macroeconomic factors, such as interest rates. Does the Administration's forecast of interest rates have a lesser impact on the markets than their forecast of the trade deficit would?

This classification is merely the attempt of the Administration to avoid accountability for the continuing failure of the United States to reverse its current account deficit. If they do not project a number, how can they be held accountable?

Such a position, I believe, is inconsistent with our intent, and is an abuse of the classification power. It appears to be an effort to prevent meaningful public discussion of the Administration's trade policies and its responses to our staggering trade deficits.

In fact, the refusal to disclose the projection of our trade deficit resonates with the same lack of forthrightness characteristic of the Administration's policies on the fiscal deficit. Indeed, I have remarked that perhaps the classification suggests the Administration is working on a flexible freeze for the trade deficit as well.

Consequently, Mr. Chairman, I urge that you hold hearings on this report, and particularly on the decision of the Administration to classify these projections at the first available opportunity.

Sincerely,

Daniel Patrick Moynihan